



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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February 7, 1997

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Application of Ameritech Michigan
Pursuant to Section 271 of the Telecommunications
Act of 1996 to Provide In-Region, InterLATA
Services in Michigan; CC Docket No. 97-1

Dear Mr. Caton:

Enclosed please find the original and twenty copies of comments filed by Wisconsin Attorney General James E. Doyle regarding the above matter. A computer diskette formatted in Word Perfect 5.1 is also enclosed.

Thank you for your cooperation in this matter.

Sincerely yours,

David J. Gilles
Assistant Attorney General

DJG:kh

Enclosures

c: United States Department of Justice
Michigan Public Service Commission
ITS, Inc.
Ameritech Michigan

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Attorney General
State of Wisconsin
Ameritech Michigan
Michigan
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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InterLATA Services in Michigan)

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CC Docket No. 97-1

COMMENTS OF WISCONSIN ATTORNEY GENERAL JAMES E. DOYLE

Wisconsin Attorney General James E. Doyle submits these comments in response to the Federal Communications Commission's request for comments regarding the application of Ameritech Michigan for authorization under section 271 of the Telecommunications Act of 1996 to provide in-region, interLATA service in the State of Michigan.

INTRODUCTION

Ameritech Michigan's (Ameritech) application for in-region, long distance authority represents a critical step in the process of implementing the pro-competitive, deregulatory national policy established by the Telecommunications Act of 1996 (1996 Act). The Federal Communications Commission's (Commission) consideration of this first application by a Bell Operating Company (BOC) will define further the framework for opening all telecommunications markets to competition as contemplated by the 1996 Act. The

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Commission's determination will have considerable precedential effect that will reach far beyond the State of Michigan and the Ameritech region and should help guide the national transition to a competitive marketplace for all telecommunications services.

The entry of new competitors like Ameritech into the long distance market undoubtedly will enhance consumer interests by increasing competition. However, the issue to be addressed in this proceeding is not whether Ameritech should be authorized to enter the interexchange market in Michigan, but when that authority should be granted.

While aware of the benefits of increased interexchange competition, Congress did not authorize immediate BOC entry into those markets in the 1996 Act. Instead, the Act holds out long distance authority as an incentive to induce BOC cooperation in the difficult task of opening the local exchange markets to competition. The fundamental policy question that the Commission must resolve in this proceeding is whether Ameritech has completed the process of opening the local exchange market in Michigan as intended by Congress.

Ameritech's application is based on factual assertions regarding competitive conditions in Michigan markets--assertions that we expect will be contested by potential new entrants--and a narrow interpretation of the requirements of section 271 that takes a minimalist view of the showing Ameritech must make to satisfy the

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statutory standards. These comments are not intended to take sides with respect to factual disputes, but instead set forth our views on the public policy considerations and legal principles the Commission should apply in considering Ameritech's application.

THE INTEREST OF THE WISCONSIN ATTORNEY GENERAL

Although Ameritech's application depends on market facts unique to the State of Michigan, the Commission's consideration of this application will have a direct effect on the telecommunications services provided to residents of other states serviced by Ameritech. Ameritech is the largest single provider of local exchange services in these states. The majority of systems and facilities Ameritech has established to serve competing local exchange companies are structured on a region-wide basis. The same systems relied upon in this proceeding will be used to serve competitors throughout the region. The Commission's evaluation of the adequacy of these systems will have significance for any subsequent Ameritech request for long distance authority for other states including Wisconsin.

The Wisconsin Attorney General has statutory responsibilities with respect to the development of pro-competitive, deregulatory policy for telecommunications services. As the primary enforcer of state antitrust laws, the Attorney General has long represented competitive interests of the state and its citizens. Also, the Wisconsin Legislature expressly authorized the Attorney General to

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represent consumer protection and competitive interests related to the introduction of competition in state telecommunications markets in 1993 Wisconsin Act 496. We have actively supported the implementation of pro-competitive policies to expand competition in all telecommunications markets in Wisconsin.

**SECTION 271 REQUIRES A THOROUGH EXAMINATION
OF THE COMPETITIVE CHARACTERISTICS OF THE LOCAL EXCHANGE MARKET
AS A PRECONDITION FOR BOC ENTRY INTO LONG DISTANCE MARKETS**

Section 271 provides criteria which the Commission must use to evaluate the competitive status of local exchange service when a BOC seeks in-region interLATA authority. First, section 271(c)(1)(A) (Track A) requires the presence of a "facilities-based competitor" providing local exchange services to residential and business subscribers pursuant to a lawful interconnection agreement. Second, section 271(c)(2)(B) sets out a "competitive checklist" that itemizes operational facilities to be established by BOC's to enable interconnection with competitors. Third, the Commission must expressly determine whether an application is "consistent with the public interest, convenience, and necessity" under section 271(d)(3)(C).

The requirements of section 271, considered collectively in view of the Act's pro-competitive, deregulatory policy objectives, require that the Commission undertake a thorough and complete examination of the status of the local exchange market in Michigan. Without a comprehensive assessment of this market, the Commission

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will not be able to assure implementation of competition as a disciplinary mechanism to replace regulation of monopoly local exchange services. In addition to determining compliance with specific checklist requirements, the Commission must use the public interest standard to address and fully resolve competitive concerns related to opening local exchange markets.

**SECTION 271 REQUIRES THAT BOC INTERCONNECTION
SERVICES BE FUNCTIONAL AND SUPPORT
ACTUAL COMPETITION FOR LOCAL EXCHANGE BUSINESS**

In order to satisfy Section 271 requirements, the applicant BOC should prove that conditions in the local exchange markets are such that new entrants are able to compete on an equal footing with the incumbent local exchange provider for the local exchange business. This is particularly the case when an application is based on Track A as in this proceeding. To meet this standard, it is not necessary to show that competitors have captured any particular percentage of the local exchange market. It does require, however, a track record of actual local exchange competition sufficient to provide reasonable assurance that there are no artificial impediments to the development a truly competitive local exchange market.

Unless there is a sufficient track record of local competition, the Commission will not have an adequate basis to conclude that new entrants can compete on an equal footing with a BOC for local exchange business. The lack of an adequate

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foundation for local competition could effectively frustrate the development of a competitive market.

Some experience with the systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing under conditions of significant local exchange competition is needed to determine if the operational systems that BOC has put in place actually perform as promised. Equal access to operation support systems, electronic interfaces and other interconnection facilities is a critical prerequisite for the development of effective local exchange competition.

Adequate technical systems must be in place and operational in order for a BOC to satisfy the requirements of section 271. To be considered operational, these systems and facilities must provide sufficient capacity to be able to handle the demands anticipated when local competition has reached a reasonably mature state. Further, these systems and facilities must have been proven adequate to handle the burdens placed upon them as local competition first takes root. This requires some experience with the systems on a day-to-day basis after significant local exchange competition has commenced.

In addition, some experience in a developing competitive environment is necessary so that disputes about interconnection obligations can be identified and resolved. It is inevitable that new entrants in local exchange markets will complain about the

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adequacy of interconnection services received from incumbent providers. When legal obligations for interconnection are subject to more than one interpretation, BOC's are likely to argue for an interpretation that furthers their competitive interests -- interests that do not necessarily coincide with pro-competitive public policy. This will give rise to disputes that could protract and delay the development of effective local exchange competition.

Effective local exchange competition will be impeded unless interested parties have the incentive and the opportunity to resolve promptly these unavoidable disputes that will arise regarding interconnection obligations. The requirements of section 271 should not be deemed satisfied until local exchange competition has developed to the point where these transitional issues have been identified and addressed.

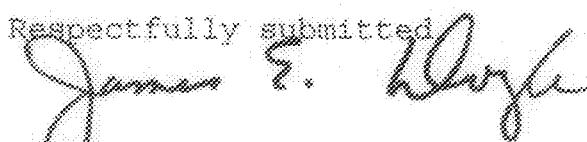
Finally, a competitive track record is necessary to reveal whether a BOC will engage in unfair or discriminatory practices to inhibit entry into local exchange markets. As a provider of essential, bottleneck facilities BOC's retain considerable market power in the delivery of these services. BOC promises of compliance with statutory prohibitions against unfair and discriminatory practices must be confirmed in the course of confronting real and effective competition the marketplace.

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CONCLUSION

The Commission should employ a broad, pro-competitive conception of the public interest in considering Ameritech's application and subsequent BOC applications for authority to provide in-region, interLATA services. When considering Track A applications, the Commission should require a showing of actual experience under local exchange competition in the state sufficient to conclude that new entrants are able to compete on an equal footing with incumbent local exchange providers for the local exchange business.

Respectfully submitted,



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Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.
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